

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

CHAPTER 262

## **HOUSE BILL 2788**

AN ACT

AMENDING TITLE 37, CHAPTER 2.1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES; AMENDING LAWS 2005, CHAPTER 322, SECTION 2, AS AMENDED BY LAWS 2007, CHAPTER 222, SECTION 15; MAKING APPROPRIATIONS; RELATING TO ENVIRONMENT BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 37, chapter 2.1, Arizona Revised Statutes, is amended  
3 by adding article 2, to read:

4 ARTICLE 2. COMMUNITY PROTECTION INITIATIVE

5 37-641. Community protection initiative fund

6 A. THE COMMUNITY PROTECTION INITIATIVE FUND IS ESTABLISHED. THE STATE  
7 FORESTER SHALL ADMINISTER THE FUND. THE FUND CONSISTS OF LEGISLATIVE  
8 APPROPRIATIONS, GIFTS, GRANTS AND ANY OTHER PUBLIC OR PRIVATE REVENUE  
9 RECEIVED BY THE STATE FORESTER FOR THE PURPOSES OF THIS ARTICLE. MONIES IN  
10 THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE STATE FORESTER FOR THE PURPOSES  
11 OF THIS ARTICLE.

12 B. ON NOTICE FROM THE STATE FORESTER, THE STATE TREASURER SHALL INVEST  
13 AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES  
14 EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE FUND ARE  
15 EXEMPT FROM THE PROVISIONS OF SECTION 35-190, RELATING TO LAPSING OF  
16 APPROPRIATIONS.

17 C. THE STATE FORESTER MAY APPLY FOR AND ACCEPT FEDERAL AND PRIVATE  
18 MONIES, GRANTS, GIFTS, CONTRIBUTIONS AND DEVISES FOR DEPOSIT IN THE FUND TO  
19 BE SPENT FOR THE PURPOSES OF THIS ARTICLE.

20 37-642. Community protection grants; eligibility

21 A. THE COMMUNITY PROTECTION INITIATIVE PROGRAM IS ESTABLISHED TO  
22 PROVIDE A SOURCE OF COST-SHARE FUNDING TO ASSIST LOCAL GOVERNMENTS AND  
23 PRIVATE LANDOWNERS IN REDUCING THE VOLUME OF HAZARDOUS FUELS ON NONFEDERAL  
24 FORESTED LAND IN THIS STATE.

25 B. THE STATE FORESTER SHALL MAINTAIN A LIST OF COMMUNITIES AT RISK OF  
26 WILDFIRE. SUBJECT TO THE AVAILABILITY OF MONIES IN THE COMMUNITY PROTECTION  
27 INITIATIVE FUND, THE FORESTER MAY ISSUE GRANTS FROM THE COMMUNITY PROTECTION  
28 INITIATIVE FUND TO AT-RISK COMMUNITIES TO COMPLETE COMMUNITY WILDFIRE  
29 PROTECTION PLANS.

30 C. THE STATE FORESTER SHALL PRIORITIZE GRANTS ACCORDING TO A  
31 COMMUNITY'S AVAILABLE RESOURCES. IN ADDITION, THE GRANTS ARE SUBJECT TO THE  
32 FOLLOWING REQUIREMENTS:

33 1. A GRANT SHALL BE ISSUED ONLY TO A COUNTY, CITY, TOWN, FIRE DISTRICT  
34 OR QUALIFIED NONPROFIT CORPORATION THAT HAS EXPERTISE IN HAZARDOUS FUELS  
35 REDUCTION.

36 2. THE STATE FORESTER SHALL REQUIRE THAT ANY GRANTEE MUST ENTER INTO A  
37 LEGALLY BINDING FINANCIAL PARTICIPATION AGREEMENT TO PROVIDE AT LEAST  
38 TWENTY-FIVE PER CENT OF THE TOTAL COST OF THE FUEL TREATMENT. ANY MONIES  
39 FROM NONFEDERAL AND NONSTATE SOURCES AND IN-KIND CONTRIBUTIONS MAY BE  
40 CONSIDERED TO QUALIFY FOR THE FINANCIAL PARTICIPATION REQUIREMENT OF THIS  
41 PARAGRAPH.

42 3. PROJECT MANAGERS MUST AGREE TO PROVIDE:

43 (a) TREATMENT INFORMATION FOR PURPOSES OF THE ARIZONA FIRE MAP  
44 PROJECT.

1 (b) FINANCIAL AND PROGRESS UPDATES TO THE STATE FORESTER EACH CALENDAR  
2 QUARTER.

3 4. ANY FUNDED PROJECT MUST MEET STANDARDS FOR HAZARDOUS FUEL REDUCTION  
4 ESTABLISHED BY THE STATE FORESTER.

5 5. THE GEOGRAPHIC AREA OF THE PROPOSED PROJECT MUST BE IDENTIFIED IN A  
6 COMMUNITY WILDFIRE PROTECTION PLAN.

7 6. THE PROJECT MUST BE COMPLETED WITHIN THIRTY-SIX MONTHS AFTER THE  
8 DATE OF THE GRANT. AT THE END OF THIRTY-SIX MONTHS, ANY UNEXPENDED AND  
9 UNENCUMBERED GRANT MONIES LAPSE AND REVERT TO THE COMMUNITY PROTECTION  
10 INITIATIVE FUND. THE STATE FORESTER SHALL EXTEND THE TERM OF THE PROJECT AND  
11 THE GRANT IN THE CASE OF FOREST CLOSURE OR PROHIBITIVE WEATHER CONDITIONS  
12 THAT ARE BEYOND THE CONTROL OF THE GRANTEE.

13 37-643. Management; categorical funding limits; annual report

14 A. THE STATE FORESTER IS RESPONSIBLE AND SHALL PROVIDE FOR THE  
15 MANAGEMENT OF THE COMMUNITY PROTECTION INITIATIVE PROGRAM UNDER THIS ARTICLE.

16 B. IN ANY FISCAL YEAR THE STATE FORESTER SHALL NOT SPEND FROM THE  
17 COMMUNITY PROTECTION INITIATIVE FUND MORE THAN:

18 1. FIFTY THOUSAND DOLLARS FOR PROGRAM ADMINISTRATION, INCLUDING:

19 (a) RANKING GRANT PRIORITIES.

20 (b) RECEIVING AND EVALUATING GRANT APPLICATIONS.

21 (c) AWARDING AND MONITORING GRANTS.

22 (d) REALLOCATING LAPSED GRANT MONIES.

23 2. ONE HUNDRED THOUSAND DOLLARS FOR AN ARIZONA FIRE MAP TO TRACK THE  
24 PROGRESS OF FOREST TREATMENT UNDER COMMUNITY WILDFIRE PROTECTION PLANS BY  
25 MANAGING TREATMENT INFORMATION AND LOADING DATA ASSOCIATED WITH THE PLANS  
26 INTO THE COMMUNITY PROTECTION INITIATIVE SYSTEM.

27 C. THE STATE FORESTER SHALL PREPARE AN ANNUAL REPORT ON THE COMMUNITY  
28 PROTECTION INITIATIVE PROGRAM, INCLUDING BUDGETED EXPENDITURES AND  
29 OUTSTANDING GRANTS FROM THE FUND AND PROGRESS IN COMPLETING PROJECTS FUNDED  
30 BY THE GRANTS. THE STATE FORESTER SHALL PROVIDE COPIES OF THE ANNUAL REPORT  
31 TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF  
32 REPRESENTATIVES, THE JOINT LEGISLATIVE BUDGET COMMITTEE, THE SECRETARY OF  
33 STATE, THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS AND ANY PERSON  
34 REQUESTING A COPY.

35 37-644. Program termination

36 THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2017 PURSUANT  
37 TO SECTION 41-3102.

38 Sec. 2. Section 41-511.23, Arizona Revised Statutes, is amended to  
39 read:

40 41-511.23. Conservation acquisition board; land conservation  
41 fund; conservation donation and public  
42 conservation accounts; livestock and crop  
43 conservation fund

44 A. The conservation acquisition board is established, as an advisory  
45 body to the Arizona state parks board, consisting of the following members

1 who are appointed by the governor, at least one of whom shall be experienced  
2 in soliciting money from private sources:

- 3 1. One state land lessee.
- 4 2. One member who is qualified by experience in managing large  
5 holdings of private land for income production or conservation purposes.
- 6 3. One member of the state bar of Arizona who is experienced in the  
7 practice of private real estate law.
- 8 4. One real estate appraiser who is licensed or certified under title  
9 32, chapter 36.

- 10 5. One member who is qualified by experience in marketing real estate.
- 11 6. One representative of a conservation organization.
- 12 7. One representative of a state public educational institution.

13 B. The governor shall designate a presiding member of the board. The  
14 term of office is five years except that initial members shall assign  
15 themselves by lot to terms of one, two, three, two members for four and two  
16 members for five years in office.

17 C. The conservation acquisition board shall:

- 18 1. Solicit donations to the conservation donation account.
- 19 2. Consult with entities such as private land trusts, state land  
20 lessees, the state land department, the Arizona state parks board and others  
21 to identify conservation areas that are reclassified pursuant to section  
22 37-312 and that are suitable for funding.
- 23 3. Recommend to the Arizona state parks board appropriate grants from  
24 the land conservation fund.

25 D. The land conservation fund is established consisting of the  
26 following accounts:

27 1. The conservation donation account consisting of monies received as  
28 donations. Donations to the account are subject to any lawful conditions the  
29 donor may prescribe, including any conditions on the use of the money or  
30 reversion to the donor. Monies in the account are exempt from the provisions  
31 of section 35-190 relating to lapsing of appropriations.

32 2. The public conservation account consisting of monies appropriated  
33 to the account from the state general fund and monies from any other  
34 designated source. In fiscal years 2000-2001 through 2010-2011, the sum of  
35 twenty million dollars is appropriated each fiscal year from the state  
36 general fund to the public conservation account in the land conservation fund  
37 for the purposes of this section. Monies in the account are appropriated for  
38 the purposes of this section, and the Arizona state parks board may spend  
39 monies in the account without further legislative authorization. Each  
40 expenditure of monies from the public conservation account for purposes  
41 listed under subsection G, paragraph 2 of this section shall be matched by an  
42 equal expenditure of monies from the conservation donation account or from  
43 other private or governmental sources.

44 E. If the legislature fails to appropriate monies to the public  
45 conservation account in a fiscal year, and if there are no other monies in

1 the public conservation account, the Arizona state parks board may either  
2 grant nothing from the fund in that year or, on recommendation by the  
3 conservation acquisition board, may grant available monies in the  
4 conservation donation account for purposes authorized in subsection G of this  
5 section.

6 F. The monies in the fund are exempt from the provisions of section  
7 35-190 relating to lapsing of appropriations.

8 G. Monies in the public conservation account, with matching monies  
9 from the conservation donation account, are appropriated as follows:

10 1. A total of two million dollars each fiscal year to the livestock  
11 and crop conservation fund. The fund is established for the purposes of this  
12 paragraph. Monies in the fund are continuously appropriated to the Arizona  
13 department of agriculture for the exclusive purpose of granting monies to  
14 individual landowners and grazing and agricultural lessees of state or  
15 federal land who contract with the Arizona department of agriculture to  
16 implement conservation based management alternatives using livestock or crop  
17 production practices, or reduce livestock or crop production, to provide  
18 wildlife habitat or other public benefits that preserve open space and for  
19 administrative expenses as provided by this paragraph. The department shall  
20 administer the fund. On notice from the director of the department, the  
21 state treasurer shall invest and divest monies in the fund as provided by  
22 section 35-313, and monies earned from investment shall be credited to the  
23 fund. Monies in the fund are exempt from the provisions of section 35-190  
24 relating to lapsing of appropriations. For the purposes of granting monies  
25 from the fund pursuant to this paragraph, the department:

26 (a) Shall develop guidelines and criteria for implementation of this  
27 program that shall include requiring as part of the application a letter  
28 describing the intended use for the grant money.

29 (b) Shall give priority to lessees of state or federal land who reduce  
30 livestock production to provide public benefits such as wildlife species  
31 conservation or wildlife habitat.

32 (c) Shall not grant more than fifty per cent of the monies in the fund  
33 with respect to land in one county in any fiscal year.

34 (d) Is exempt from chapter 6 of this title with respect to adopting  
35 rules, except that the department shall provide for public notice and sixty  
36 days for public comment on the annual grant guidelines and criteria,  
37 including public hearings.

38 (e) Shall award all grants pursuant to chapter 24, article 1 of this  
39 title.

40 (f) Shall require each grantee to submit to the department, within  
41 twelve months after receiving the grant, a written report detailing how grant  
42 monies were used to achieve the project described in the letter submitted as  
43 part of the application. If the project is longer than one year, a written  
44 report shall be submitted to the department on an annual basis until the  
45 project is complete.

1 (g) May use not more than ~~five~~ TEN per cent of the monies appropriated  
2 to the fund in any fiscal year for the purposes of administering the program.

3 (h) Shall prepare a report of the disposition of monies appropriated  
4 to the fund each fiscal year and provide a copy of the report to the  
5 governor, to the Arizona state parks board and to any person who requests a  
6 copy.

7 2. The remainder of the monies to the Arizona state parks board for  
8 the exclusive purpose of granting monies to the state or any of its political  
9 subdivisions, or to a nonprofit organization that is exempt from federal  
10 income taxation under section 501(c) of the internal revenue code and that  
11 has the purpose of preserving open space, for the following purposes only:

12 (a) To purchase or lease state trust lands that are classified as  
13 suitable for conservation purposes pursuant to title 37, chapter 2, article  
14 4.2. A grant of money under this subdivision to a nonprofit organization is  
15 conditioned on the organization providing reasonable public access to any  
16 land that is wholly or partly purchased with that money. The organization  
17 shall agree with the Arizona state parks board that it will impose a  
18 restrictive covenant, running with the title to the land, granting such  
19 access and providing for reversion to this state of any interest in the  
20 property acquired with money granted under this subdivision on the failure to  
21 comply with the terms of the covenant. The Arizona state parks board and the  
22 state land commissioner have standing to either enforce the covenant or  
23 recover the amount of the grant from the current owner, with interest from  
24 the date the grant was awarded to the nonprofit organization.

25 (b) To purchase the development rights of state trust lands throughout  
26 this state under the following conditions:

27 (i) The development rights shall be sold at public auction as provided  
28 in section 37-258.01.

29 (ii) The lessee of the state trust land at the time the development  
30 rights are purchased shall be notified of the purchase in writing.

31 (iii) The purchase of the development rights shall not result in  
32 cancellation or modification of the current lease.

33 (iv) The purchase of the development rights shall not affect the  
34 existing lessee's current economic use of the land and rights pursuant to  
35 title 37, chapter 2, article 4.2.

36 (v) As a condition of the sale of the development rights, the  
37 purchaser shall agree in perpetuity not to exercise the development rights  
38 and that the land shall remain as open space.

39 (vi) The state trust land shall retain any other rights and attributes  
40 as prescribed by law at the time of the purchase.

41 H. For the purposes of subsection G, paragraph 2 of this section:

42 1. The Arizona state parks board shall not grant more than fifty per  
43 cent of the monies with respect to land in one county in any fiscal year.

1           2. A grant of money is valid for eighteen months and may be extended  
2 one time for twelve additional months if a required public auction has not  
3 been held.

4           3. The Arizona state parks board may adopt rules to establish  
5 qualifications of nonprofit organizations for purposes of applying for and  
6 receiving money granted.

7           4. The owner of property that is wholly or partly acquired with money  
8 granted shall not restrict or unreasonably limit access to private lands.  
9 Any sale of land with money granted shall include a condition requiring that  
10 permanent access to private lands be allowed.

11           I. The Arizona state parks board shall administer the land  
12 conservation fund. On notice from the board, the state treasurer shall  
13 invest and divest monies in either account in the fund as provided by section  
14 35-313, and monies earned from investments shall be credited to a separate  
15 administration account to pay the board's expenses of administering the land  
16 conservation and acquisition program under subsection G, paragraph 2 of this  
17 section, which shall not exceed five per cent of the amount deposited in the  
18 public conservation account in any fiscal year or five hundred thousand  
19 dollars, whichever is less. Any unobligated amount remaining in the  
20 administration account at the end of the fiscal year shall be credited to the  
21 public conservation account for purposes of subsection D of this section.

22           J. Members of the conservation acquisition board may be reimbursed for  
23 travel and lodging expenses and per diem subsistence allowances incurred  
24 while on public business for the board. Reimbursement amounts shall not  
25 exceed those allowed under title 38, chapter 4, article 2.

26           Sec. 3. Laws 2005, chapter 322, section 2, as amended by Laws 2007,  
27 chapter 222, section 15, is amended to read:

28           Sec. 2. Plan submission fees; appropriation

29           Notwithstanding the provisions of section 27-1233, subsection B,  
30 Arizona Revised Statutes, as added by this act, monies collected by the state  
31 mine inspector for submission of reclamation plans between January 1, 2006  
32 and July 1, ~~2007~~ 2008 are appropriated to the state mine inspector for the  
33 purposes of plan review and evaluation.

34           Sec. 4. Off-highway vehicle recreation fund; use

35           Notwithstanding section 28-1176, Arizona Revised Statutes, the Arizona  
36 state parks board may spend up to \$692,100 from the Arizona state parks board  
37 portion of the off-highway vehicle recreation fund in fiscal years 2007-2008  
38 and 2008-2009 for parks board operating expenses.

39           Sec. 5. Arizona water protection fund; use

40           Notwithstanding section 45-2112, subsection B, Arizona Revised  
41 Statutes, the annual appropriation from the state general fund to the Arizona  
42 water protection fund for fiscal years 2007-2008 and 2008-2009 shall be as  
43 specified in the general appropriations act.

1       Sec. 6. Arizona state parks board; availability of monies

2       Notwithstanding section 41-511.11, Arizona Revised Statutes, or any  
3 other law, all state parks enhancement fund monies are available in fiscal  
4 years 2007-2008 and 2008-2009 for the operation of state parks as  
5 appropriated by the legislature in the general appropriations act or for  
6 capital needs as determined by the Arizona state parks board with the prior  
7 approval of the joint committee on capital review to acquire and develop real  
8 property and improvements as state parks consistent with the purposes and  
9 objectives prescribed in section 41-511.03, Arizona Revised Statutes.

10       Sec. 7. Underground storage tank assurance account; transfer of  
11           monies; uses

12       Notwithstanding any other law, the administrative cap established in  
13 section 49-1051, subsection B, paragraphs 2 and 3, Arizona Revised Statutes,  
14 is suspended for fiscal year 2007-2008 and fiscal year 2008-2009, and the  
15 department of environmental quality may transfer \$6,531,000 from the  
16 assurance account of the underground storage tank revolving fund for  
17 administrative costs of the underground storage tank leak prevention program  
18 and for the used oil program.

19       Sec. 8. Navigable stream appropriation; exemption from lapsing

20       Notwithstanding any other law, the \$50,000 appropriated to the Arizona  
21 navigable stream adjudication commission for appeals to commission decisions  
22 in fiscal year 2005-2006 by Laws 2005, chapter 286, section 64, as amended by  
23 Laws 2006, chapter 344, section 43, is exempt from the provisions of section  
24 35-190, Arizona Revised Statutes, relating to lapsing of appropriations,  
25 through June 30, 2008.

26       Sec. 9. Water infrastructure finance authority; loans

27       The department of environmental quality and the water infrastructure  
28 finance authority shall assist municipalities that are remediating discharged  
29 untreated or improperly treated wastewater into the groundwater that may have  
30 an actual or potential impact on the water of the Colorado river and are  
31 converting from septic or other wastewater treatment systems to an approved  
32 sewer system that may include, but not require, replacement of existing  
33 twenty-year loans and obtaining thirty-year loans under the clean water  
34 program.

35       Sec. 10. Appropriation; community protection fund

36       The sum of \$1,000,000 is appropriated from the state general fund in  
37 fiscal year 2007-2008 to the community protection initiative fund.

APPROVED BY THE GOVERNOR JUNE 25, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 25, 2007.